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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

NORMA SORIA,

Defendant and Appellant.

H037395

(Santa Clara County

Super. Ct. No. EE705957)

On June 29, 2007, the Santa Clara District Attorney filed a complaint in Santa Clara County Superior Court case No. EE705957, charging Norma Soria (defendant) with one felony count of second degree burglary (Pen. Code, § 459); and one count of driving without a license (a misdemeanor) (Veh. Code, §§ 12500, 40000.11).

On August 29, 2007, defendant pleaded no contest to the charges. Thereafter, on December 17, 2007, the court placed defendant on felony probation for three years with various terms and conditions including that she obey all laws, enter and complete a substance abuse program, pay certain fines and fees, including probation supervision fees, and serve four months in county jail. Defendant was ordered to surrender to the county jail on December 27, 2007.

On July 31, 2008, the probation department filed a petition to revoke defendant's probation. The petition alleged that defendant had violated her probation because she had

failed to report to serve her sentence, was arrested in June 2008 for a narcotics offense, and had failed to make any payments toward her fines and fees.¹ Defendant admitted the probation violation and was reinstated on probation.

On August 1, 2011, the probation department filed a second petition to revoke defendant's probation. This time, the petition alleged that defendant had failed to provide proof of completion of a substance abuse program and had failed to report to probation for an office visit on November 12, 2009. Again, defendant admitted the probation violation. After defendant waived her custody credits, the court reinstated her on probation, but extended probation for another two years. The court ordered her to serve 10 months in county jail.

Defendant filed a timely notice of appeal and sought, but was denied, a certificate of probable cause.²

Defendant's counsel has filed an opening brief in which no issues are raised and asks this court for an independent review of the record as required by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has declared that defendant was notified that no issues were being raised by counsel on appeal and that an independent review under *Wende* was being requested.

On December 22, 2011, we notified defendant of her right to submit written argument on her own behalf within 30 days. That time has passed and we have not received a response from defendant.

¹ We note that an order for probation fees cannot be a valid condition of probation. (*People v. Hall* (2002) 103 Cal.App.4th 889, 894; *People v. Hart* (1998) 65 Cal.App.4th 902, 907.) Ergo, a defendant cannot violate probation for failing to pay those fees.

² Defendant sought a certificate of probable cause on the grounds that she did not violate her probation because her failure to appear in court was due to her being in the hospital. Further, she asserted that she did complete a drug program at Walden House. We note that the court did not find that defendant violated her probation because she failed to appear in court. Rather, the court found defendant in violation of her probation because she failed *to provide proof of completion* of a substance abuse program.

Pursuant to *People v. Wende, supra*, 25 Cal.3d 436 we have reviewed the entire record and have concluded there are no arguable issues on appeal. Pursuant to *People v. Kelly* (2006) 40 Cal.4th 106, we provide a brief description of the facts and have provided the procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed. (*Id.* at p. 110.)

*Facts and Proceedings Below*³

On June 27, 2007, defendant and codefendant Mario Medal called Lowe's Home Improvement Warehouse and purchased merchandise over the phone using a credit card; they were not authorized to use the card. They picked up the merchandise from Lowe's. Defendant drove the codefendant's car even though she had a suspended license.

When defendant admitted the second probation violation she was advised of and waived her constitutional rights. In addition, defendant waived her prior conduct credits, which she had earned through July 29, 2011.

Our review of the record satisfies this court that defendant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d at p. 441.)

³ The facts are taken from the probation officer's report.

Disposition

The judgment is affirmed.

ELIA, J.

WE CONCUR:

RUSHING, P. J.

PREMO, J.